

(2) A Grant officer may approve the waiver described in paragraph (a)(1) of this section if the grant officer finds that the recipient has demonstrated substantial compliance with the requirements of WIOA sec. 184(d)(2).

(b)(1) When the debt for which a waiver request was established in a non-Federal resolution proceeding, the resolution report must accompany the waiver request.

(2) When the waiver request is made during the ETA Grant Officer resolution process, the request must be made during the informal resolution period described in § 683.440(c).

(c) A waiver of the recipient's liability must be considered by the Grant Officer only when:

(1) The misexpenditure of WIOA funds occurred at a subrecipient's level;

(2) The misexpenditure was not due to willful disregard of the requirements of title I of WIOA, gross negligence, failure to observe accepted standards of administration, and did not constitute fraud or failure to make the required disclosures in accordance with 2 CFR 200.113 addressing all violations of Federal criminal law involving fraud, bribery or gratuity violations (2 CFR part 180 and 31 U.S.C. 3321)

(3) If fraud did exist, was perpetrated against the recipient/subrecipients, and:

(i) The recipient/subrecipients discovered, investigated, reported, and cooperated in any prosecution of the perpetrator of the fraud; and

(ii) After aggressive debt collection action, it has been documented that further attempts at debt collection from the perpetrator of the fraud would be inappropriate or futile;

(4) The recipient has issued a final determination which disallows the misexpenditure, the recipient's appeal process has been exhausted, and a debt has been established; and

(5) The recipient provides documentation to demonstrate that it has substantially complied with the requirements of WIOA sec. 184(d)(2) and this section.

(d) The recipient will not be released from liability for misspent funds under the determination required by WIOA sec. 184(d) unless the Grant Officer de-

termines that further collection action, either by the recipient or subrecipient(s), would be inappropriate or would prove futile.

**§ 683.740 What is the procedure to handle a recipient of title I Workforce Innovation and Opportunity Act funds' request for advance approval of contemplated corrective actions?**

(a) The recipient may request advance approval from the Grant Officer for contemplated corrective actions, including debt collection actions, which the recipient plans to initiate or to forego. The recipient's request must include a description and an assessment of all actions taken to collect the misspent funds.

(b) Based on the recipient's request, the Grant Officer may determine that the recipient may forego certain debt collection actions against a subrecipient when:

(1) The subrecipient meets the criteria set forth in WIOA sec. 184(d)(2);

(2) The misexpenditure of funds:

(i) Was not made by that subrecipient but by an entity that received WIOA funds from that subrecipient;

(ii) Was not a violation of WIOA sec. 184(d)(1), did not constitute fraud, or failure to disclose, in a timely manner, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award; or

(iii) If fraud did exist:

(A) It was perpetrated against the subrecipient;

(B) The subrecipient discovered, investigated, reported, and cooperated in any prosecution of the perpetrator of the fraud; and

(C) After aggressive debt collection action, it has been documented that further attempts at debt collection from the perpetrator of the fraud would be inappropriate or futile;

(3) A determination which disallows the misexpenditure and establishes a debt has been issued at the appropriate level; and,

(4) Further debt collection action by that subrecipient or the recipient would be either inappropriate or futile.